



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 29, 1998

Mr. R. Burk Morris
County Attorney
Archer County
P.O. Box 1208
Archer City, Texas 76351

OR98-1083

Dear Mr. Morris:

On behalf of Archer County (the "county"), you ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 115171.

The custodian of records for the Archer County Attorney, Judge, Commissioners, Sheriff and Justice of the Peace received a request for numerous items of information.¹ You state that portions of the requested information, including certain records of the Justice of the Peace, are available for public release.² You have informed the requestor which county officer maintains these public records. You state that, to your knowledge, request items F and Q do not exist. In reference to two request items, you state that you do not know what is meant by "a deferment agreement." If what information is requested is unclear to a governmental body, the governmental body may ask the requestor to clarify the request. Gov't Code § 552.222(b). You maintain that portions of the request are "overbroad." A governmental body should discuss with the requestor how the scope of a request might be narrowed if a large amount of information has been requested. *See id.* You assert that several of the requested records are excepted from required public disclosure based on sections 552.102, 552.108 and 552.109 of the Government Code. However, you did not

¹Each elected county officer is the officer for public information and the custodian, as defined by section 201.003 of the Local Government code, of the information created or received by that county officer's office. Gov't Code § 552.201(b).

²The records of a justice of the peace are not subject to the Open Records Act but may be inspected under the statutory and the common law. *See* Open Records Decision No. 25 (1974); Gov't Code § 552.003(1)(B) (excluding records of the judiciary from the Open Records Act).

submit to our office certain information that is required to be submitted to our office under section 552.301(b). Specifically, you did not submit a copy of the specific information requested, or a representative sample of the information.

Pursuant to section 552.303(c) of the Government Code, on March 18, 1998, our office notified you by letter sent via facsimile that you had failed to submit the information required by section 552.301(b). We requested that you provide this information to our office within seven days from the date of receiving the notice. The notice further stated that under section 552.303(e), failure to comply would result in the legal presumption that the requested information is public information.

You did not timely provide our office with the information that was requested in our March 18, 1998, notice to you. Therefore, as provided by section 552.303(e), the information that is the subject of this request for information is presumed to be public information. *Information that is presumed public must be released unless a governmental body demonstrates a compelling interest to withhold the information to overcome this presumption. See Hancock v. State Bd. of Ins., 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982).* You have not shown compelling reasons why the information at issue should not be released. Therefore, the information is presumed to be public and must be released.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hastings
Assistant Attorney General
Open Records Division

KHH/rho

Ref.: ID# 115171

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